

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

COMMERCIAL VENTURES
DEVELOPMENT LLP, a Washington
Limited Liability Partnership,

Plaintiff,

v.

FIDALGO RESTAURANT GROUP, INC.,
a Washington Corporation and UNITED
STATES TREASURY DEPARTMENT-
INTERNAL REVENUE SERVICE and
WASHINGTON STATE DEPARTMENT
OF REVENUE, WASHINGTON STATE
EMPLOYMENT SECURITY,
WASHINGTON STATE DEPARTMENT
OF LABOR & INDUSTRY,

Defendants.

NO. C12-00308-MJP

**STIPULATED MOTION AND
AGREED ORDER FOR THE
DISMISSAL OF THE U.S.
INTERNAL REVENUE SERVICE
AND REMAND OF CASE TO
SUPERIOR COURT IN AND FOR
THE COUNTY OF SKAGIT,
STATE OF WASHINGTON**

(Noted for Consideration Today,
Pursuant to Local Rule 7(d)(1))

COME NOW the Plaintiff, Commercial Ventures Development LLP., a Washington Limited Liability Partnership, and the only Defendant that has appeared, the United States of America, for the United States Department of Treasury, Internal Revenue Service, by and through their respective attorneys, James Dewitt McBride of Julin & McBride P.S., for the Plaintiff, and Jenny A. Durkan, United States Attorney for the Western District of Washington, and Anastasia Bartlett, Assistant United States Attorney for said District, and stipulate and agree as follows:

1 (a) An action was commenced in the Superior Court for the County of Skagit, against
2 personal property under the ownership of Defendant Fidalgo Restaurant Group, Inc., and
3 described in Exhibit A, attached hereto, and identified in Paragraph No.3.2 of the Complaint for
4 (1) Money Due Landlord; (2) Foreclosure of UCC Security Interest; (3) Foreclosure of
5 Landlord Lien; (4) Quiet Title; and (5) Adjudicate Priorities; and

6 (b) The Internal Revenue Service (IRS) was named as a party in this action because of
7 its recorded interest in the subject personal and or real property, resulting from the Notice of
8 Federal Tax Lien recorded against the Fidalgo Restaurant Group, Inc. The IRS recorded with
9 the County Auditor, Skagit County, a lien at No. 200810060006, on October 6, 2008, and the
10 IRS recorded with the Washington State Department of Licensing, UCC Office, a financing
11 statement on October 6, 2008, at UCC No. 2008-281-3193-5; and

12 (c) The United States removed the action to the United States District Court for the
13 Western District of Washington under the specific removal authority set forth in 28 U.S.C.
14 Section 1444, Foreclosure Action Against the United States; and

15 (d) After review and consideration of the property at issue and thorough analysis, the
16 United States, on behalf of the IRS (1) disclaims any interest pursuant to the subject Notices of
17 Federal Tax Lien, with respect only to the property that is the subject of this action; and (2)
18 hereby releases the Notices of Federal Tax Lien from the property at issue in this action and set
19 forth in Exhibit A, hereto, and (3) therefore, the IRS has no equitable or legal interest in the
20 property to be foreclosed upon in this action; and

21 (e) The Notice of Federal Tax Lien above described continues to run against the
22 Fidalgo Restaurant Group, Inc., except for the personal property at issue in this action; and

23 (f) No other interest or right of the United States, if any, is affected by the subject
24 release of interest; and

25 (g) Plaintiff will not obtain a money judgment against Defendant the IRS, or any other
26 recovery based on the facts or proceedings in this action; and

- 1 (h) Defendant IRS shall be dismissed from further participation in this action; and,
2 (i) The parties hereby acknowledge and agree that each side shall pay all their own
3 attorney fees, and any other fees and costs associated with this action; and
4 (j) Without the United States as a party to this action, there is no basis for federal
5 jurisdiction and this action is appropriate for remand to the Superior Court for Skagit County,
6 State of Washington.

7
8 **DATED** this 4th day of April, 2012.

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10 Respectfully submitted,

11 JENNY A. DURKAN
12 United States Attorney

13 *s/Anastasia D. Bartlett*
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28 Attorneys for Plaintiff Commercial Ventures Development LLP

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ORDER

Based upon the foregoing Stipulated Motion between Plaintiff Commercial Ventures Development LLP, by and through its attorneys of record, James D. McBride of Julin & McBride, P.S., and Defendant United States of America, Internal Revenue Service, by and through its attorney of record, Anastasia Bartlett, Assistant United States Attorney, and the Court having been fully advised,

IT IS ORDERED that the lien of the Defendant United States of America, Internal Revenue Service, found at State of Washington, UCC No. 2008-281-3193-5, and State of Washington, Skagit County Auditor's No. 200810060006, that has attached to the subject personal property at issue in this action is hereby released from the subject personal property at Exhibit A of the accompanying Stipulated Motion, as agreed to by the parties, and thereby the Defendant United States of America, Internal Revenue Service, is dismissed from this action without prejudice and without costs;

IT IS ORDERED that this action be Remanded to the Superior Court for Skagit County, in the State of Washington, pursuant to 28 U.S.C. Section 1447(c), for lack of federal jurisdiction; and

IT IS FURTHER ORDERED that the Clerk of this Court shall mail a certified copy of this Stipulated Motion and Agreed Order to the Superior Court of Skagit County, State Of Washington, at 205 W Kincaid St, Room 103, Mount Vernon, WA 98273-4225, for filing under *Commercial Ventures Development, LLP v. Fidalgo Restaurant Group, Inc., et al.*, Skagit County Superior Court Cause No. 11-2-02191-5.

DATED this 6th day of April, 2012.



Marsha J. Pechman
United States District Judge